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20 *Counsel for Defendants*

21 UNITED STATES DISTRICT COURT
22 FOR THE NORTHERN DISTRICT OF CALIFORNIA
23 OAKLAND DIVISION

24 STATE OF CALIFORNIA, *et al.*,

25 Plaintiffs,

26 v.

27 DAVID BERNHARDT, *et al.*,

28 Defendants.

No. 4:18-cv-05712-YGR

(Consolidated With Case No. 4:18-cv-05984-YGR)

**DEFENDANTS' NOTICE OF LODGING OF
THE CORRECTED ADMINISTRATIVE
RECORD**

1 Federal Defendants hereby give notice of lodging the corrected administrative record. On March
 2 8, 2019, Defendants filed their notice of lodging of the administrative record, ECF No. 100, which the
 3 Court received that same day, ECF No. 101. As explained in the attached Declaration of James Tichen-
 4 or (Exhibit A), this corrected administrative record corrects an inadvertent disclosure of certain privi-
 5 leged documents in the original administrative record. Defendants now lodge with the Court this cor-
 6 rected administrative record, which replaces the original record. Attached to this notice are the index to
 7 the administrative record and the privilege log for the administrative record. As the inadvertent disclo-
 8 sure did not affect these documents, they are the same as those filed with the original administrative rec-
 9 ord. One courtesy copy of the corrected record will be provided for chambers. Copies of the corrected
 10 record are also being served on Plaintiffs' and Intervenor's counsel by overnight mail.

12 The corrected administrative record includes deliberative documents. Although Defendants
 13 include these documents consistent with Northern District of California caselaw, their inclusion is
 14 subject to Defendants' continuing objection that deliberative documents do not properly belong in an
 15 administrative record prepared under the Administrative Procedure Act absent evidence that the agency
 16 acted in bad faith.

18 Respectfully submitted this 27th day of March, 2019.

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23 /s/ Carter F. Thurman
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